



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 10, 1998

Mr. Paul F. Wieneskie
Cribbs & McFarland, P.C.
P.O. Box 13060
Arlington, Texas 76094-0060

OR98-0652

Dear Mr. Wieneskie:

On behalf of the City of Euless (the "city"), you ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 113848.

The city received a request for copies of several traffic citations, portions of a certain videotape and the "name of, and documents signed by, the ride-a-long or passenger" in a particular officer's patrol vehicle at a certain time. You state that the city will release to the requestor a copy of the requested videotape. You assert that the remaining information requested is excepted from required public disclosure based on sections 552.101, 552.108 and 552.117 of the Government Code.

Section 552.117 excepts from disclosure certain individuals' home address, home telephone number, social security number, and information that reveals whether the individual has family members. We conclude that section 552.117 does not apply in this instance.

You raise sections 552.101 and 552.108(a)(2) of the Government Code for the copies of the six requested traffic citations. Section 552.101 excepts from required public disclosure information that is made confidential by law, either constitutional, statutory, or by judicial decision. Section 552.108 of the Government Code reads in pertinent part as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime; -

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

...

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

You state that “[a]ll of the information written on the citations is held by a law enforcement agency, and now the prosecutor, and deals with the detection, investigation or prosecution of crime, in relation to an investigation which, as yet, has not resulted in convictions or deferred adjudication for the persons named in the citations.” As you have indicated that the prosecutions of the persons who received the citations are pending, we conclude that the release of the information would interfere with the investigation and prosecution of crime.¹ Section 552.108 is inapplicable to “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). We believe this “basic information” encompasses the information the court held to be public in *Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). You ask specifically about whether “basic information” includes the accused person’s home address and telephone number, social security number, driver’s license number, place of employment and business telephone number. We conclude that the “basic information about an arrested person” includes this information. However, this does not end our discussion.

Section 552.130 of the Government Code provides as follows

(a) Information is excepted from [required public disclosure] if the information relates to:

(1) a motor vehicle operator’s or driver’s license or permit issued by an agency of this state;

(2) a motor vehicle title or registration issued by an agency of this state; or

¹Section 552.108(a)(2) applies to information relating to a criminal investigation or prosecution that concluded in a result other than a conviction or deferred adjudication. As the cases here have not reached a conclusion, section 552.108(a)(2) is inapplicable.

(3) a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

(b) Information described by Subsection (a) may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

Thus, we believe the city must withhold the driver's license numbers from the requestor based on section 552.130.

Social security numbers may be withheld in some circumstances under section 552.101 of the Government Code. A social security number or "related record" may be excepted from disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I). *See* Open Records Decision No. 622 (1994). These amendments make confidential social security numbers and related records that are obtained and maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* We have no basis for concluding that any of the social security numbers in the file are confidential under section 405(c)(2)(C)(viii)(I), and therefore excepted from public disclosure under section 552.101 of the Open Records Act on the basis of that federal provision. We caution, however, that section 552.353 of the Open Records Act imposes criminal penalties for the release of confidential information. Prior to releasing any social security number information, you should ensure that no such information was obtained or is maintained by the city pursuant to any provision of law, enacted on or after October 1, 1990.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hastings
Assistant Attorney General
Open Records Division

KHH/rho

Ref.: ID# 113848

Enclosures: Submitted documents

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(w/o enclosures)